

February 5, 2004

## **STATE SUES WEBSMART FOR VIOLATING CONSUMER FRAUD LAWS**

BISMARCK – The state of North Dakota will not pursue criminal action against WebSmart or its owners, but will pursue the owners in a separate consumer protection action. WebSmart is a now defunct telemarketing business formerly operating in Minot and Grand Forks.

Attorney General Wayne Stenehjem was asked by Ward County State's Attorney John Van Grinsven to review the matter. Stenehjem instructed the state Bureau of Criminal Investigation (BCI) to conduct an investigation into allegations that WebSmart issued nonsufficient funds paychecks to some of its employees, and that it deducted premiums from employees' paychecks for health and life insurance which were then not forwarded to the appropriate provider. Stenehjem asked the BCI to interview every former employee who received an NSF check to determine if the checks had been paid and if the employee wanted to pursue criminal charges. In each of those instances, it was determined that the checks were made good, and none of the employees expressed an interest in criminal charges against the company or its owners, or that the applicable time to file charges had expired. Stenehjem also asked Grand Forks County State's Attorney Peter Welte to review the investigation and make his own determination if criminal charges were warranted. In a letter to Stenehjem, Welte concluded that criminal charges were not warranted.

However, Stenehjem is pursuing consumer protection civil action against the company and its former owners. "This office has conducted an exhaustive investigation and today has served a civil complaint against WebSmart and its principal owners for violating consumer fraud laws," said Stenehjem.

The lawsuit alleges that WebSmart engaged in deceptive selling practices and seeks to recover losses suffered by consumers, totaling over \$64,000. Preliminary information indicates that over 250 North Dakota residents may have been deceived. The complaint asks the court to assess penalties for the violations.

A separate investigation concluded that WebSmart and its employees deceived consumers by misleading them into believing the member packages it sold included credit cards, when in fact those packages included "stored value cards." A stored value card differs from a credit card in that the consumer pre-pays an amount to open the account and can only spend that amount. Credit is not extended to the customer.

The complaint also alleges that WebSmart was actively involved in "upselling." Upselling occurs when a customer is unwittingly charged for additional products that were not part of the original sale. In this case, the state alleges that additional long distance phone services, not a part of the original sales pitch, were foisted on the customer in a later conversation with another agent. The state alleges that WebSmart continued its telemarketing activities even after it became aware, or should have been aware, that the member packages were not being delivered to consumers.

# # #